IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 419 OF 2006

DR. SIDDHARTHA S. BANAULIKAR, SIOLIM, BARDEZ GOA. ....Petitioner

Versus

GOA UNIVERSITY THROUGH ITS VICE CHANCELLOR AND 2 ORS., ...Respondents

Mr. Vivek Rodrigues, Advocate for the Petitioner.
Mrs. A. A. Agni, Advocate for the Respondent No.1.
Mr. S. S. Kantak, Advocate General with Ms. L. Dharwadkar, Additional Government Advocate for the Respondent Nos.2 and 3.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 28th November, 2006

P.C.:-

Heard.

The Petitioner was required to approach this Court as his results of the examination were withheld and subsequently he was declared as having failed. The Petitioner appeared for examination held in April, 2006 and has been declared failed as he was not able to obtain the minimum marks for passing theory paper in Forensic Medicine and Toxicology.

The learned Counsel appearing for the Respondent No.1/University placed before us an Answer Sheet of the said paper and on going through the Answer Sheet, we are satisfied that there has been no case of malpractice, fraud, improper conduct or any error committed on behalf of the University. It is now well settled that the Court cannot substitute itself for the valuers appointed by the University to evaluate the performance of

the candidates appearing for various examinations.

Probably, the apprehension on the part of the Petitioner is that the examiner/valuer has been biased towards him because of which he failed in the theory paper.

It was very fair on the part of the learned Counsel appearing for the Respondent No.1/University that the said examiner/valuer has informed the University that he is not willing to act as an examiner for the said paper and therefore we do not find that there is any merit in the petition so as to grant the relief as sought by the Petitioner out of which the substantial relief being to declare that the candidate has passed in April, 2006 Examination. Another contention raised by the Petitioner is in respect of Ordinance 19 and particularly OC-19.6. It is the contention of the Petitioner that the Petitioner's dissertation has been approved by majority of the examiners i.e. 3 out of 4, he is entitled to be admitted to oral and written examinations as in the case of the Petitioner, one out of 4 examiners has returned the dissertation with remarks noted vide Communication dated 18-4-2006 in which it has been specified that the contents of pages 1 to 6 of the dissertation contains many erors of the following nature:-

(a) Grammatical errors;
(b) References not tallying with those listed in bibliography;
(c) Improper way of referencing;
(d) Many statistics quoted are not supported by references.

These need to be rectified. Surprisingly these mistakes are totally absent from the rest of the contents.

The learned Counsel appearing for the University submitted that if these errors are rectified it will be in the interest of the Petitioner.

In addition to other deficiencies found in the dissertation, it will be in the interest of the Petitioner to resubmit his dissertation to the examiner

after rectifying the deficiencies pointed out in the said Communication and we need not make any observation in respect of the same and its implication as it will not be fair on our part and this has to be left to the discretion of the Petitioner. It is therefore kept open whether he wants to agitate the issue or not as the question would arise only after the Petitioner clears the theory paper in which he has failed and resubmit the dissertation to the University.

The learned Counsel appearing for the University submits that the copies of Dissertation will be made available to the Petitioner within a period of one week.

With the aforesaid observations, the petition stands dismissed.

J. N. PATEL, J.

N. A. BRITTO, J.

RD.